

## **REMARKS**

### **Specification**

Applicants thank Examiner for examination of the previously-submitted Substitute Specification. With the exception of the drawings, Applicants presume that the Substitute Specification is acceptable unless they are otherwise notified. Applicants understand per Section 3 of the Office action that the filed drawings are acceptable for examination purposes.

### **Claims**

Claims 11-21 were presented for examination and were pending in this application. In an Office action dated June 3, 2005 claims 11 and 18-21 were rejected. Applicants thank Examiner for examination of the claims pending in this application and address Examiner's comments below.

Applicants herein amend claims 11, 12, 16, 18 and 20-21. New claims 22 and 23 are added. These changes are believed not to introduce new matter, and their entry is respectfully requested.

Based on the above Amendment and the following Remarks, Applicants respectfully request that Examiner reconsider all outstanding objections and rejections and withdraw them.

### **Response to Claim Objections**

In Section 4 of the Office action, Examiner objected to claims 12 and 16 based on specified informalities. Applicants have amended claims 12 and 16 to overcome the asserted

informalities. Applicants believe that amended claims 12 and 16 are acceptable in form, and accordingly respectfully request that Examiner withdraw the objections.

### Response to Claim Rejections

In Section 6 of the office action, Examiner rejected claims 11 and 18-21 under 35 U.S.C. 102(e) as being anticipated by Qin et al. (U.S. Patent No. 6,393,480). This rejection is respectfully traversed.

Claim 11, as amended, recites a method to analyze network performance, comprising generating a flows report to monitor a given flow, the given flow having one or more frames that are sent from a sending node to a receiving node, and the flows report comprising:

- a data payload bytes attribute indicating a sum of the payload bytes for the frames in the flow; and
- a data frames attribute indicating a number of frames having data in the flow.

The claimed invention provides a method for analyzing network performance according to a flows report that describes aspects of a given flow having a frame or frames traveling from a sending to a receiving node. The flows report includes attributes that characterize the given flow, including the sum of the payload bytes of the frames in the flow and the number of frames having data in the flow.

The claimed invention is patentably distinguishable over the cited references. For example, Qin discloses a method that “provides an estimate of application performance in a second network given performance characteristics of the application in a first network” (Qin, Abstract). Qin further discloses a “visual thread diagram” that “shows descriptive

information for each of a number of threads, including the thread name 118, server node 119, client node 120... [,] average thread size, number of turns, ... start time, and duration...” (Qin, column 5 lines 44-59). However, the claimed invention discloses generating a flows report to monitor a given flow, the given flow having one or more frames that are sent from a sending node to a receiving node, and the flows report including a data payload bytes attribute indicating a sum of the payload bytes for the frames in the flow, and a data frames attribute indicating a number of frames having data in the flow. These features of claim 11 are patentably distinguishable over the cited references. Based on the above Amendment and Remarks, Applicants respectfully submit that for at least these reasons amended claim 11 is patentably distinguishable over the cited reference. Therefore, Applicants respectfully request that Examiner reconsider the rejection, and withdraw it.

Claim 18 as amended recites a method of monitoring network performance when executing a task, the method comprising, *inter alia*:

displaying a first processing time corresponding to a first node in the network, the processing time comprising attributes having one of a node name and a node address, one of a start time and a start frame, one of an end time and an end frame and a duration, a number of errors associated with one of the start frame and the end frame, and a processing type, the processing type comprising one of:

...

Unlike the cited references, the claimed invention discloses a method of monitoring network performance when executing a task, the method comprising displaying a first processing time corresponding to a first node in the network, the processing time comprising attributes having a number of errors associated with one of a start frame and an end frame. Thus, Applicants respectfully submit that for at least this reason, amended claim 18 is

patentably distinguishable over the cited references. Therefore, Applicants respectfully request that Examiner reconsider the rejection and withdraw it.

Dependent claims 19 and 20 depend from independent claim 18 and recite additional patentable features. For example, claim 19 recites displaying additional processing times, each additional processing time corresponding to an additional node in the network. These features are distinguishable over the cited references. Claim 20 recites additional processing time attributes. These attributes, taken in the context of the features recited in Claims 18 and 19, are distinguishable over the cited references.

Claim 21 as amended recites a method of monitoring network performance when executing a task. Applicants respectfully submit that for at least the reason stated above regarding claims 18-20, amended claim 21 is patentably distinguishable over the cited reference. Therefore, Applicants respectfully request that Examiner reconsider the rejection and withdraw it.

Applicants have added new claims 22-23 for which Applicants request consideration and examination. New claim 22 depends from claim 11 and derives patentability from claim 11, in addition to reciting additional patentable features. For example, claim 22 recites a sending node attribute indicating the sending node. Support for new claim 22 can be found in the substitute specification in sections [0095] through [0114]. New claim 23 depends from claim 21 and derives patentability from claim 21, in addition to reciting additional patentable features, e.g., additional processing time attributes. Support for new claim 23 can be found in the substitute specification in sections [0081] and [0083]-[0085].

### Conclusion

In sum, Applicants respectfully submit that claims 11 through 21, as presented herein, are patentably distinguishable over the cited references (including references cited, but not applied). Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them.

Applicants further submit that new claims 22-23 are supported by the specification and are commensurate with the scope of protection to which Applicants believe they are entitled. Therefore, Applicants request allowance of these claims as well.

Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,  
Steven J. Schaffer and Jacob Weil

Date: SEPT. 6, 2005

By: \_\_\_\_\_



David Varn, Agent of Record  
Registration No. 53,718  
FENWICK & WEST LLP  
801 California Street  
Mountain View, CA 94041  
Phone: (650) 335-7183  
Fax: (650) 938-5200  
E-Mail: [dvarn@fenwick.com](mailto:dvarn@fenwick.com)